IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION NO : 25137 of 2004

Between:

1. D.Bheemashah,

S/o Balappa, Aged about 57 years,

Occ: Agriculture, R/o Neelakallu village,

Devadurga Taluq, Raichur district,

Karnataka.

2. D.Krishna, S/o D.Bheem Rao,

aged about 26 years, Occ: Business.

3. D.Pavan Kumar, S/o D.Bheem Rao,

aged about 24 years, Occ: Business

4. D.Bheem Rao, S/o Hanumanth Rao,

aged about 48 years, Occ: Business

5. Smt. D.Padma, W/o D.Bheem Rao,

aged about 42 years, Occ: Household

(Petitioners No.2 to 4 are R/o 2 RT, III Sanjeeva Reddy Nagar, Hyderabad.)

..... PETITIONERS

AND

1. D.Chitralekha, W/o Bheemrao,

aged 45 years, Occ; Household,

R/o Neelakallu village, Devadurga Tq.,

Raichur district, Karnataka.

2. Ing. Vysya Bank Ltd.,

Ameerpet Branch, Hyderabad.

Rep. by its Branch manager.

3. Badam Ramaswamy, S/o Venkataiah,

aged 65 years, Occ: Business,

R/o 6-1-1081 Lakdi-ka-pool,

Hyderabad.

4. The Recovery Officer,

Debt Recovery Tribunal,

5th Floor, Triveni Complex,

Abids, Hyderabad.

5. The Debts Recovery Tribunal,

5th Floor, Triveni Complex,

Abids, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of mandamus (i) declaring the order of the Respondent No.4 in C.P.No.88 of 2004 in R.P.No.627 of 2003 in O.A.No.938 of 1997 dated 22-11-2004 as arbitrary, illegal, violative of Articles 14, 21 and 300-A of constitution of India and consequently set aside the same; and (ii) to set aside the auction conducted by the Respondent No.4 on 23-11-2004.

Counsel for the Petitioner : Sri A.SUDERSHAN REDDY

Counsel for the Respondents: Sri A.RAJASHEKAR REDDY
(SC FOR CG)

The Court made the following :

W.P.No.25137 of 2004

HCJ & MNR,J

ORDER: (Per Hon'ble the Chief Justice)

Order passed by the Recovery Officer rejecting the claim of the petitioners is under challenge in this writ petition. Order was passed on 22nd November, 2004. There is a statutory appeal, which is maintainable against the impugned order before the Debt Recovery Tribunal. Without availing that remedy, this writ petition has been filed. We will relegate the petitioners to the ordinary statutory alternative remedy,

which is equally efficacious and dismiss the writ petition with direction that in case appeal is preferred by petitioners within a period of thirty days from today, same will be duly entertained and decided in accordance with law, without raising the question of limitation, and for a period of one month from today, no coercive steps will be taken qua the property of petitioners and further interim orders will be obtained by the petitioners from the Debt Recovery Tribunal, Hyderabad.

_____

DEVINDER GUPTA, C.J.

_____

M.NARAYANA REDDY,J

31-12-2004

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Recovery Officer,

Debt Recovery Tribunal,

5th Floor, Triveni Complex,

Abids, Hyderabad.

2. The Debts Recovery Tribunal,

5th Floor, Triveni Complex,

Abids, Hyderabad.

3. 2CD copies

Form-NIC-OGS/WP{ }